

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LE'TAXIONE,

Plaintiff,

v.

CHRISTOPHER BABCOCK, et al.,

Defendants.

CASE NO. C19-5251 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R") of the Honorable J. Richard Creatura, United States Magistrate Judge, Dkt. 32, and Plaintiff Le'Taxione's ("Plaintiff") objections to the R&R, Dkt. 33.

On January 28, 2020, Judge Creatura issued the R&R recommending that the Court dismiss the complaint without prejudice for failure to properly serve the complaint. Dkt. 32. On February 10, 2020, Plaintiff filed objections. Dkt. 33.

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 In this case, the Court agrees with Judge Creatura that the complaint should be  
2 dismissed without prejudice for failure to timely attempt service. On April 4, 2019,  
3 Plaintiff filed the complaint and paid the filing fee. Since that time, he has failed to  
4 submit proper documents to the Clerk in order to receive summonses in pursuit of  
5 properly serving his complaint. On three separate occasions, Judge Creatura directed  
6 Plaintiff to complete the necessary paperwork and serve the complaint. Dkts. 9, 14, 29.  
7 Plaintiff's failure to complete these tasks within ten months establishes a failure to  
8 prosecute. Plaintiff, however, objects arguing that it is unclear how to prosecute such a  
9 complex case and again requesting the appointment of counsel. Dkt. 33. The Court  
10 concludes that service is not a complex activity, especially when Judge Creatura set forth  
11 specific instructions on how to accomplish the task. Therefore, the Court having  
12 considered the R&R, Plaintiff's objections, and the remaining record, does hereby find  
13 and order as follows:

- 14 (1) The R&R is **ADOPTED**;
- 15 (2) Plaintiff's complaint is **DISMISSED without prejudice**; and
- 16 (3) The Clerk shall enter a JUDGMENT and close the case.

17 Dated this 4<sup>th</sup> day of May, 2020.

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20 BENJAMIN H. SETTLE  
21 United States District Judge  
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